

HAWAII ADMINISTRATIVE RULES

TITLE 15

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT,
AND TOURISM

SUBTITLE 14

HOUSING AND COMMUNITY DEVELOPMENT CORPORATION OF HAWAII

CHAPTER 167

LOAN PROGRAM FOR KALAPANA DISASTER VICTIMS

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Historical note: Chapter 15-167, Hawaii Administrative Rules, is based substantially upon chapter 6-320, Hawaii Administrative Rules. [Eff 11/30/91; R **OCT 25 1999**]

SUBCHAPTER 1

GENERAL PROVISIONS

\$15-167-1 Purpose. These rules are adopted pursuant to chapter 91, Hawaii Revised Statutes ("HRS"), to enable the corporation to provide low-interest loans to residents and citizens of Hawaii who have suffered the loss of their homes and lands to the devastating effects of the continued volcanic eruptions on the island of Hawaii which began on January 3, 1983. This loan program is a one-time public relief program of last resort. [Eff **OCT 25 1999**] (Auth: SLH 1991, Act 242) (Imp: SLH 1991, Act 242)

\$15-167-2 Definitions. As used in this chapter: "Area of lesser volcanic risk" means an area as determined by the corporation in consultation with the department of land and natural resources, the state civil defense division, the Hawaii county office of housing and community development, the Hawaii county planning department, the Hawaii county civil defense agency and the Hawaiian volcano observatory.

"Board" means the board of directors of housing and community development corporation of Hawaii.

"Corporation" means the housing and community development corporation of Hawaii.

"Financial institution" means a bank as the term is defined in section 403-2, Hawaii Revised Statutes.

"Household" means the individual members who dwelled as a family and have been displaced or dispossessed from their home as a result of the continued volcanic eruptions on the island of Hawaii.

"Owned" means a person who occupied a residence and:

- (1) Is the legal owner;
- (2) Does not hold formal title to the residence and paid no rent but was responsible for the payment of taxes, or maintenance of the residence; or
- (3) Had lifetime occupancy rights with formal title vested in another.

"Repairs or improvements, or both" means modifications made to the applicant's principal residence which are for the purpose of bringing such residence in conformance with county building code or occupancy requirements, or both for the applicant's immediate family.

"Residence" as used herein means the dwelling unit which is financed pursuant to this chapter.

"Volcanic hazard zones" means zones 1 to 9, as determined from time to time by the U.S. Department of Interior/Geological Survey, with zone 1 being the areas of greatest hazard to zone 9 being the areas of least hazard. [Eff **OCT 25 1999**] (Auth: SLH 1991, Act 242) (Imp: SLH 1991, Act 242)

SUBCHAPTER 2

LOAN PROGRAM FOR KALAPANA DISASTER VICTIMS

§15-167-5 Corporation's right to contract for services. The corporation is authorized to enter into agreements with or purchase services from any financial institution, or any other appropriate government agency, for services required for the purposes of this chapter. [Eff **OCT 25 1999**] (Auth: SLH 1991, Act 242) (Imp: SLH 1991, Act 242)

§15-167-6 Eligibility criteria for loan. An applicant shall be eligible for a loan under this chapter if:

- (1) The applicant is a resident of Hawaii who has been dispossessed or displaced from his or her home as a result of volcanic eruptions which began on January 3, 1983 on the island of Hawaii in the Kalapana area;

- (2) The applicant has applied for Federal Disaster Assistance and has exhausted all resources from all of the following sources:
 - (A) Federal Small Business Administration;
 - (B) Federal/State Individual and Family Grant Programs; and
 - (C) State of Hawaii Disaster Commercial and Personal Loan Program;
- (3) Except as provided in section 15-167-8(2), the applicant has no present ownership interest in a principal residence; and
- (4) The applicant possesses the financial resources and credit worthiness to repay the loan. [Eff **OCT 25 1999**] (Auth: SLH 1991, Act 242) (Imp: SLH 1991, Act 242)

\$15-167-7 Use of loan. Loans made under this chapter shall be:

- (1) For the purpose of land acquisition, home construction and mortgage loans, or repairs or improvements or both for a residence located in an area of lesser volcanic risk;
- (2) A loan of last resort; and
- (3) Limited to one loan per household.
[Eff **OCT 25 1999**] (Auth: SLH 1991, Act 242) (Imp: SLH 1991, Act 242)

\$15-167-8 Loan preferences. The corporation shall establish preferences for loans made under this chapter which preferences shall be in the following order:

- (1) An applicant who owned a home that was destroyed or rendered inaccessible and has no present ownership interest in a principal residence.
- (2) An applicant who owned a home that was destroyed or rendered inaccessible but has purchased a principal residence which needs repairs or improvements, or both.
[Eff **OCT 25 1999**] (Auth: SLH 1991, Act 242) (Imp: SLH 1991, Act 242)

\$15-167-9 Criteria for determining an area of lesser volcanic risk. The criteria used in determining

whether an area is an area of lesser volcanic risk includes, but is not limited to, the following:

- (1) An area should not promote or encourage higher density development in volcanic hazard zones 1 and 2 in the east rift zone of Kilauea unless:
 - (A) Information can be provided by the U.S. Geological Survey that the area in question is of lower risk to lava flow inundation; or
 - (B) A strong case can be made that to do otherwise would not be in the best public interest; and
- (2) An area located in volcanic hazard zones 1 and 2 may be eligible if determined to be an area of lesser volcanic risk. [Eff OCT 25 1999] (Auth: SLH 1991, Act 242) (Imp: SLH 1991, Act 242)

S15-167-10 Amount of loan. The maximum amount of the loan available under this chapter shall be \$35,000 per household. [Eff OCT 25 1999] (Auth: SLH 1991, Act 242) (Imp: SLH 1991, Act 242)

S15-167-11 Term of the loan. The term of the loan shall not be more than forty years. [Eff OCT 25 1999] (Auth: SLH 1991, Act 242) (Imp: SLH 1991, Act 242)

S15-167-12 Interest rate on loan. The interest rate on the loan offered under this chapter shall not exceed three per cent. If the applicants are charged an interest rate which is less than three per cent, the corporation shall, at its option, annually review the applicants' income to determine whether the interest rate charged should be adjusted upward, but not to exceed the interest rate permitted under this chapter. [Eff OCT 25 1999] (Auth: SLH 1991, Act 242) (Imp: SLH 1991, Act 242)

S15-167-13 Loan procedures. The corporation shall establish the procedures relating to the application and qualification of applicants for loans

made under this chapter. [Eff **OCT 25 1999**] (Auth: SLH 1991, Act 242) (Imp: SLH 1991, Act 242)

\$15-167-14 Fees. The applicant is responsible for payment for all fees charged by the financial institution, or the government agency, in connection with the application for a loan under this chapter. [Eff **OCT 25 1999**] (Auth: SLH 1991, Act 242) (Imp: SLH 1991, Act 242)

\$15-167-15 Mortgage valid first lien. Whenever possible, the mortgage securing each loan shall constitute a first lien on such real estate secured. [Eff **OCT 25 1999**] (Auth: SLH 1991, Act 242) (Imp: SLH 1991, Act 242)

\$15-167-16 Establishment of mortgage lien; protection of security. If the loan is secured by a mortgage lien on realty, the financial institution or the government agency shall promptly record or file, or both the lien with the bureau of conveyances or the land court of the State of Hawaii as the case may be, to ensure the creation of a valid lien on the mortgaged property. [Eff **OCT 25 1999**] (Auth: SLH 1991, Act 242) (Imp: SLH 1991, Act 242)

\$15-167-17 Acceleration of maturity of loan. The occurrence of either of the following events shall be sufficient grounds for the corporation, at its option, to accelerate the maturity of the loan.

- (1) The applicant ceases to occupy the residence as the applicant's primary residence; or
 - (2) Failure to respond within thirty days to the corporation's request to verify the continued occupancy of the applicant.
- [Eff **OCT 25 1999**] (Auth: SLH 1991, Act 242) (Imp: SLH 1991, Act 242)

\$15-167-18 Default of loan. The occurrence of any of the following events shall be sufficient grounds for the corporation, at its option, to treat the loan to be in default:

- (1) The property described in the mortgage or security agreement is conveyed or transferred. Provided, however, that a transfer of title will be permitted if it appears to the satisfaction of the corporation that the transfer was effected for estate planning purposes and the corporation's security interest is unaffected by the transfer;
- (2) The loan applicant fails to comply with any agreement executed for the purpose of securing the loan; or
- (3) The corporation determines that any statement made by the applicant in the loan application or loan document. [Eff **OCT 25 1999**]
(Auth: SLH 1991, Act 242) (Imp: SLH 1991, Act 242)

\$15-167-19 Corporation's rights upon default of loan. With respect to any loan made under this chapter, which is in default under the terms thereof, the corporation may:

- (1) Renegotiate, refinance or foreclose the loan;
- (2) Waive any default or consent to the modification of the terms of the loan or the security agreement;
- (3) Commence any action to protect or enforce any right conferred upon the corporation by any law, mortgage, insurance policy, contract or other agreement;
- (4) Bid for and purchase the property secured by the loan at any foreclosure or other sale, or acquire or take possession of the property secured by the loan; or
- (5) Operate, manage, lease, dispose of, or otherwise deal with the property secured by the loan. [Eff **OCT 25 1999**] (Auth: SLH 1991, Act 242) (Imp: SLH 1991, Act 242)

\$15-167-20 Loan not available for refinancing. No funds under this chapter shall be available for the refinancing of existing loans. [Eff **OCT 25 1999**]
(Auth: SLH 1991, Act 242) (Imp: SLH 1991, Act 242)

§15-167-21 Occupancy. The applicant shall utilize the residence purchased or repaired or improved or both under this chapter as his or her principal residence for the life of the loan.

[Eff **OCT 25 1999**] (Auth: SLH 1991, Act 242) (Imp: SLH 1991, Act 242)

§15-167-22 False information in application. By signing the application, the loan applicant certifies that the information provided in the application is true and correct. The loan applicant shall be subject to criminal charges or civil action, or both under the laws of the State of Hawaii if false information is provided. [Eff **OCT 25 1999**] (Auth: SLH 1991, Act 242) (Imp: SLH 1991, Act 242)

SUBCHAPTER 3

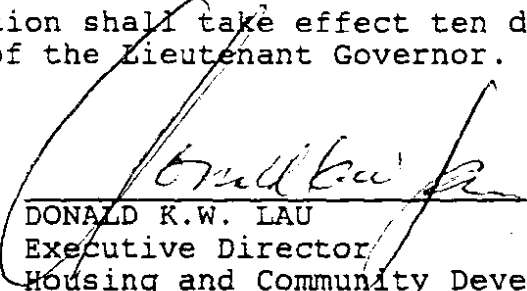
MISCELLANEOUS PROVISIONS

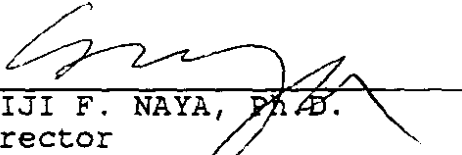
§15-167-30 Waiver. The board may by resolution waive or vary provisions of these rules or any process or procedure established by these rules in order to conform to applicable federal and state laws, regulations and requirements. [Eff **OCT 25 1999**] (Auth: Act 242, SLH 1991) (Imp: Act 242, SLH 1991)

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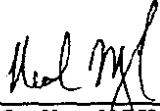
The repeal of chapter 6-320 and the adoption of chapter 15-167, Hawaii Administrative Rules, on the Summary Page dated August 27, 1999, was adopted on August 27, 1999, following public hearings held on Maui on July 15, 1999, Hilo on July 16, 1999, Oahu on July 19, 1999, and Kauai on July 20, 1999, after public notice was given in the Midweek newspaper on June 7, 1999.

The repeal and adoption shall take effect ten days after filing with the Office of the Lieutenant Governor.


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Dated:

10-14-99

OCT 15 1999

Filed

LIEUTENANT GOVERNOR
OFFICE

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